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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,077	08/08/2003	Joseph J. Berke	1549-003	9078

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ALEX RHODES
UNIT NO. 9
50168 PONTIAC TRAIL
WIXOM, MI 48393

EXAMINER

NGUYEN, TUAN N

ART UNIT PAPER NUMBER

3751

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/637,077	Applicant(s) BERKE ET AL.	
	Examiner Tuan N. Nguyen	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,5-9 and 11-21 is/are allowed.
- 6) ☒ Claim(s) 3,4,10 and 22-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892). | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/06/04 with respect to the Paterson have been fully considered but they are not persuasive as indicated in rejections below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 4, 10 and 22-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 3 and 4, the limitation "said means for storing said eye washing fluid" in line 2 of claims 3 and 4 lack antecedent in the claim; therefore, it is unclear as to difference between the above limitation with the "reservoir for storing and eye washing fluid" in lines 1-2 of claim 1.

With respect to claims 22-27, the limitation "said tank" in line 8 of claim 22 and line 3 of claim 24 lack antecedent in the claim; therefore, it is unclear as to difference between the limitation "said tank" with the "reservoir" in line 1 of claim 22.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 22, 23, 25-30, 32 and 33 rejected under 35 U.S.C. 102(b) as being anticipated by Paterson et al. (hereinafter Paterson).

In regard to claims 22 and 23, Paterson discloses an eye injury treatment station (see Fig. 24) comprising a reservoir (12) for storing an eye washing fluid (water) under pressure, the reservoir having a means (see Fig. 20, the hand operated pump 150) for developing the pressure in an interior of the reservoir, an eye washing fluid stored in the interior of the reservoir; a pair of hand held applicators (192,192) connected to the reservoir that is capable of retracting eyelids and is capable of spraying the eye washing fluid into at least one eye of an injured person who is lying or standing; and a pair flexible tubes (194,194) for connecting the applicators to the reservoir at a location which is remote from the, as best understood, reservoir when the applicators is removed from the clips (198,198) for use.

In regard to claim 25, the Paterson station further comprises a means (196) in each of the applicators for controlling amounts of spray of the eye washing fluid from each of the applicators.

In regard to claims 26 and 27, the means (see Fig. 20) for developing a pressure in the interior of the reservoir is a hand operated pump (150) having a valve (158) within housing (154) that is a part of the reservoir.

In regard to claims 28-30, 32 and 33, the method as claimed would be inherent during normal assembly of the use of the Paterson device. Wherein, the medication of

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claim 29 would be the eye washing solution or additives (see col. 4, line 42 et seq. of Paterson).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flores in view of Sturgis or Dimmick.

Flores teaches all of the claimed limitations except for the use of a chain and padlock as a retaining means. The retaining means of the Flores are belts coupling to the side leg/frame (14) and secured to each other by buckles (30). Attention is directed to the Sturgis reference, which indicates the conventional use of chain and padlock to secure a toolbox to a frame of a vehicle so as to prevent theft (see col. 1, lines 57-61) and the Dimmick reference, which also indicates the common use of chain and padlock as a securing device to prevent theft (see col. 1, lines 23-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace, the Flores retaining means, with a chain and padlock retaining means as, for example, taught by Sturgis or Dimmick in order to prevent unauthorized removal of the reservoir (12) of Flores.

5. Claims 17, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allman in view of Flores.

In regard to claims 17 and 18, Allman discloses the station comprises the reservoir (36), a hand operated pump (55), spraying means (54), the means (32, 34) for collecting, the cart (Fig. 1), and the cabinet (10) as discussed above except for a pressure gauge for displaying a pressure in the water tank (36). Attention is directed to the Flores reference, which discloses an analogous mobile station as discussed above, wherein the water tank has a pressure gauge (36) for indicating the pressure within the water tank. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Allman device, a pressure gauge as, for example, taught by Flores in order to provide an indication of pressure within the Allman supply tank.

In regard to claim 21, the Allman collecting means comprises a basin (32) attached to the cart for collecting the fluid; a pail (60) for receiving fluid from the basin; and a flexible tube (58) attached to an outlet portion of the basin for directing the fluid into the pail (see Fig. 4 of Allman).

6. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allman in view of Flores as applied to claim 17 above, and further in view of Tanner et al. (hereinafter Tanner).

Although the Allman spraying means is just a spray gun unit (54) capable of spraying fluid into the eye and does not include a mask for enclosing the eye as claimed, attention is directed to the Tanner reference, which discloses an emergency spraying unit (see Fig. 4) for mounting onto a vehicle. The unit having a spray gun (94) and a mask (76 or 78) with spraying nozzle portion therein capable of enclosing an eye

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for spraying fluid into the eye. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the single spray gun unit (54) of the Allman device with a multiple sprays unit as, for example, taught by Tanner in order to allow better flexibility for washing the user face or eyes.

7. Claims 31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paterson in view of Ness.

In regard to claim 31, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a magnet such as the Ness magnetic ophthalmic instrument to remove a foreign ferromagnetic object from the eye. It is reminded that no structure is actually being claimed to perform such step.

In regard to claim 34, it would have been obvious to one having ordinary skill in the art at the time the invention was made to collect and dispose of spent eye washing fluid with a container/bucket so as to keep the place sanitized. It is reminded that no structure is actually being claimed to perform such step.

Allowable Subject Matter

8. Claims 1, 5-9 and 11-21 are allowed.

9. Claims 3, 4 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tuan Nguyen
Primary Examiner
Art Unit 3751
1/8/03

TN